

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA,	.	CASE NO. 4:12-CR-639
	.	
PLAINTIFF,	.	
	.	
V.	.	HOUSTON, TEXAS
	.	TUESDAY, JULY 25, 2023
JEFFREY DEROND KERSEE,	.	02:10 P.M. TO 02:16 P.M.
	.	
DEFENDANT.	.	
.	

INITIAL APPEARANCE

SOME PARTIES APPEARING VIA VIDEOCONFERENCE

BEFORE THE HONORABLE ANDREW M. EDISON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:	SEE NEXT PAGE
ELECTRONIC RECORDING OFFICER:	DANIEL BERGER
CASE MANAGER:	NOT IDENTIFIED
OFFICIAL INTERPETER:	NONE PRESENT

TRANSCRIPTION SERVICE BY:

TRINITY TRANSCRIPTION SERVICES
1081 Main Street
Surgoinville, TN 37873
281-782-0802
battshott@aol.com

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Appearances:

For the GOVERNMENT:	BRIAN ROCK, ESQ. Assistant United States Attorney Office of the United States Attorney 1000 Louisiana, Suite 2300 Houston, TX 77002
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Transcription Service:	Cheryl L. Battaglia Trinity Transcription Services 1081 Main Street Surgoinsville, TN 37873 281-782-0802
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Houston, Texas; Tuesday, July 25, 2023; 02:10 p.m.

THE COURT: -- know. If you don't or if you'd like me to rephrase it, or restate it, I will be happy to do so.

The next thing that we're going to talk about today is the appointment of counsel. You have the right to be represented by an attorney at all stages of these criminal proceedings. And if you cannot afford an attorney, I will be happy to appoint an attorney for you.

I received a number of financial affidavits from individuals indicating you want me to appoint an attorney. And I will do so at the proper time.

Last but not least, we'll talk about whether or not the Government is requesting that you be detained pending trial. As a general -- overall, you are innocent until proven guilty. And as a general rule defendants would be released from custody pending trial of the case.

Only in rare circumstances, when a Government -- the Government could show that you were either a risk of flight or a danger to the community, maybe you'd be held in custody. And you're entitled to a hearing, at which time the Government would be required to put on evidence that you are a risk of flight, or a danger to the community, and there are no conditions that I could impose, like an ankle monitor or a curfew, to help alleviate that threat.

At that hearing, your attorney will be permitted to

1 ask questions, call witnesses, and cross examine witnesses of
2 the other side, as well as make any argument on your behalf.
3 So we'll talk about that and if we need to set what we call a
4 detention hearing, that is to determine whether you should be
5 held in custody pending trial, we'll set that today as well.

6 Okay. With all that said and done, and I will -- let
7 me call each case. And let me start off by calling Case 4:12-
8 CR-639-1, *United States versus Jeffrey Derond Kersee*.

9 **(Pause in the proceeding.)**

10 **THE COURT:** Who do we have for the Government?

11 **MR. ROCK:** Brian Rock for the Government, your Honor.

12 **THE COURT:** Well, Mr. Kersee, how are you, sir?

13 **DEFENDANT KERSEE:** I'm okay.

14 **THE COURT:** Okay. Well good to see you.

15 So we're here today on what we call a petition for
16 warrant or summons for a -- a offender under supervision.

17 Have you received a copy of that document? And have
18 you the opportunity to review it?

19 **DEFENDANT KERSEE:** Yes, your Honor.

20 **(Pause in the proceeding.)**

21 **THE COURT:** Okay. Before I go any further, I want to
22 make sure, can I have your agreement that we can proceed with
23 at least me by video here today, sir?

24 **DEFENDANT KERSEE:** Yes.

25 **THE COURT:** Okay.

1 And, Mr. Rock, let me ask you. Can I have your
2 consent to proceed by video on all the matters that are on the
3 docket here today?

4 **MR. ROCK:** Of course. Yes, your Honor.

5 **THE COURT:** Okay. Thank you.

6 Mr. Kersee, I have in front of me the petition for
7 warrant or summons for under supervision. And although I know
8 you've an opportunity to review it, I am required to go over
9 that with you.

10 According to the document, you were put on supervised
11 release on May 14, 2021. There are a couple allegations that
12 you have violated release.

13 One of them is -- one of the conditions was not to
14 commit any further violation of law. And the allegation is
15 that on April 25th, 2022, you damaged and destroyed tangible
16 property, specifically, a window. And that was a violation.

17 In addition, there's an allegation that you committed
18 a violation of the law by committing an aggravated robbery,
19 deadly weapon in or about December 23rd, 2022.

20 And in addition, there's an allegation that you
21 violated the law and violated the terms of your supervised
22 release by assaulting a family member on or about December
23 23rd, 2022.

24 Without saying whether or not those charges are true
25 or not, because that's not important for today's proceeding, do

1 you agree -- understand what the Government is alleging that
2 you have done, sir?

3 **DEFENDANT KERSEE:** Yes, your Honor.

4 **THE COURT:** Okay.

5 You've heard me at the outset talk about your basic
6 rights in connection with matter, including the right to remain
7 silent.

8 Did you understand those rights as I explained them,
9 sir?

10 **DEFENDANT KERSEE:** Yes.

11 **(Pause in the proceeding.)**

12 **THE COURT:** Okay. The next thing we need to talk
13 about is the appointment of counsel. I have received a
14 financial affidavit from you which indicates that you would
15 like me to appoint counsel to represent you in connection with
16 this matter, correct?

17 **DEFENDANT KERSEE:** Correct.

18 **THE COURT:** Based on the representations you provided
19 in that financial affidavit, I find that you are financially
20 eligible for appointment of counsel. And I'll appoint the
21 United States Federal Public Defender for the Southern District
22 of Texas, that office, to represent you.

23 I see Mr. Rosa-Amberg (phonetic) is there. And I'll
24 let him make his formal introduction for the record.

25 **MR. ROSA-AMBERG:** Good afternoon, your Honor.

1 Alexander (phonetic) Ambrose on behalf of the Defendant.

2 **THE COURT:** Good to see you.

3 **MR. ROSA-AMBERG:** Likewise.

4 **THE COURT:** Okay. Since this is the first appearance
5 between the Defendant and Government, Defendant's counsel and
6 the Government, I'm required by Rule 5(f) of the Federal Rules
7 of Criminal Procedure, to inform Mr. Rock as counsel for the
8 Government, that your responsibility to comply with the
9 disclosure obligations set for by the United States Supreme
10 Court in the landmark case of Brady versus Maryland and its
11 progeny.

12 As you're well aware, failure to abide those
13 disclosure obligations, may result in sanctions, contempt
14 proceedings, exclusion of evidence, jury instruction, and/or
15 the dismissal or charges. I'll enter a formal written order to
16 that effect later today because the rules require me to do so.

17 And Mr. Rock, from now on out today, I'm going to
18 simply ask you in an effort to try to get a little quicker, if
19 you understand your Rule 5(f) obligations. And those 5(f)
20 obligations are the disclosure obligations under *Brady versus*
21 *Maryland*.

22 Do you understand that, sir?

23 **MR. ROCK:** Yes, sir.

24 **(Pause in the proceeding.)**

25 **THE COURT:** Okay. Mr. Rosa-Amberg, from taking a

1 look at the documentation, it looks like Judge Crane to whom
2 this matter has been referred to, asks issuance of a warrant
3 and no bond.

4 I've been given a final revocation date -- hearing
5 date, of August the 2nd at 9:30 a.m., before Judge Crane here
6 at the Houston courthouse.

7 With all that said, is there anything else that we
8 need to address today, other than have you, or someone from
9 your office, to get ready to prepare Mr. Kersee for that August
10 2nd final revocation hearing before Judge Crane?

11 **MR. ROSA-AMBERG:** Nothing, your Honor. We'll -- we
12 will be ready.

13 **THE COURT:** Okay. Mr. Rock, anything further?

14 **MR. ROCK:** No, your Honor.

15 **THE COURT:** Okay.

16 Mr. Kersee, pursuant to Judge Crane's instructions,
17 I'm going to remand you to the custody of the United States
18 Marshal pending the August 2nd hearing before Judge Crane.

19 And I know the Federal Public Defender's Office will
20 be ready to go. Have a good day, sir. And then you're
21 excused. Thank you very much.

22 **(This proceeding was adjourned at 02:16 p.m.)**

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CERTIFICATION

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I certify that the foregoing is a correct transcript from the
electronic sound recording of the proceedings in the above-
entitled matter.

/s/ Cheryl L. BattagliaAugust 31, 2023

Transcriber

Date

4:12-CR-639

07/25/23 - 08/31/23